·	Application No.	Applicant(s)	
_	40/054 250	DUBLING IEEEDEV O	
Notice of Allowability	10/054,350 Examiner	PHILLIPS, JEFFREY O.  Art Unit	
	Jane T. Fan	1625	
The MAILING DATE of this communication appearance All claims being allowable, PROSECUTION ON THE MERITS IS herewith (or previously mailed), a Notice of Allowance (PTOL-85) NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIOF the Office or upon petition by the applicant. See 37 CFR 1.313	(OR REMAINS) CLOSED in this apportant or other appropriate communication GHTS. This application is subject to	plication. If not included will be mailed in due course. THIS	
1. This communication is responsive to <u>amdt of 9/22/03</u> .			
2. The allowed claim(s) is/are <u>1-2, 8, 10-14, 18-23, 25-32, 34</u>	•	6 <u>, 108-112 renumbered as 1-51</u> .	
3. The drawings filed on are accepted by the Examine		•	
<ul> <li>I. Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</li> <li>a) ☐ All b) ☐ Some* c) ☐ None of the:</li> </ul>			
1. ☐ Certified copies of the priority documents have	been received.		
2.   Certified copies of the priority documents have	been received in Application No	·	
<ol> <li>Copies of the certified copies of the priority documents.</li> <li>International Bureau (PCT Rule 17.2(a)).</li> </ol>	cuments have been received in this	national stage application from the	
* Certified copies not received:			
5. Acknowledgment is made of a claim for domestic priority up (a) The translation of the foreign language provisional a		onal application).	
6. Acknowledgment is made of a claim for domestic priority up		•	
	•		
Applicant has THREE MONTHS FROM THE "MAILING DATE" of below. Failure to timely comply will result in ABANDONMENT of			
7. A SUBSTITUTE OATH OR DECLARATION must be submINFORMAL PATENT APPLICATION (PTO-152) which gives reas			
<ul> <li>8.  CORRECTED DRAWINGS must be submitted.</li> <li>(a)  including changes required by the Notice of Draftspers</li> <li>1)  hereto or 2)  to Paper No</li> </ul>		•	
(b) including changes required by the proposed drawing of		•	
(c) including changes required by the attached Examiner	's Amendment / Comment or in the	Office action of Paper No	
Identifying indicia such as the application number (see 37 CFR 1 each sheet.	.84(c)) should be written on the drawi	ngs in the front (not the back) of	
9. DEPOSIT OF and/or INFORMATION about the depo- attached Examiner's comment regarding REQUIREMENT FOR T			
Attachment(s)			
<ul> <li>1 ☐ Notice of References Cited (PTO-892)</li> <li>3 ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)</li> <li>5 ☐ Information Disclosure Statements (PTO-1449), Paper No. 7</li> <li>7 ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material</li> </ul>	4☐ Interview Summ <u>8</u> . 6☐ Examiner's Ame	al Patent Application (PTO-152) ary (PTO-413), Paper No indment/Comment ement of Reasons for Allowance	
·			

Application/Control Number: 10/054,350

Art Unit: 1625

#### **DETAILED ACTION**

Applicant' amendment of September 22, 2003 has been entered. Claims 1-2, 8, 10-14, 18-23, 25-32, 34-36, 75-76, 81, 85-88, 92-97, 99-106, 108-112 are under consideration. Claims 1-2, 8, 10-14, 18-23, 25-32, 34-36, 75-76, 81, 85-88, 92-97, 99-106, 108-112 are allowable.

Reasons of allowance—There are vast numbers of prior art references. The closest art are JP05-194225, JP05-194224, patent 6,248,363, WO94/02140, patent 6,391,342, 4,786,505, US2002/0192299, patent 5,708,017. The claimed composition used in the treatment is patentable over the art in that the amount of buffer is much more than the prior art. The buffer used in the art is intended to stabilize the acid labile benzimidazole only wherein the amount of buffer used in the claimed composition for treatment is to provide a slightly basic environment in patients' stomach for fast action rendering the claims patentable.

An enormous number of prior art references have been submitted in the parent cases without description of relevancy. These references as cited on the 1449 have been given a cursory review commensurate to the manner they are submitted.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane T. Fan whose telephone number is 703-308-4705. The examiner can normally be reached on 7:00am-3:30pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alan Rotman can be reached on 703-308-4698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1235.

Application/Control Number: 10/054,350

Art Unit: 1625

Jane T. Fan Primary Examiner Art Unit 1625

September 29, 2003

JANE FAN
PRIMARY EXAMINER
GROUP 1200



## United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gev

# NOTICE OF ALLOWANCE AND FEE(S) DUE

7590

Joseph A. Mahoney Mayer, Brown & Platt

P.O. Box 2828

Chicago, IL 60690

09/30/2003

\_\_\_

FAN, JANE T

**EXAMINER** 

ART UNIT

514-340000

DATE MAILED: 09/30/2003

APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 10/054,350 01/19/2002 Jeffrey O. Phillips 02936354 9247

TITLE OF INVENTION: NOVEL SUBSTITUTED BENZIMIDAZOLE DOSAGE FORMS AND METHOD OF USING SAME.

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	\$650	\$300	\$950	12/30/2003

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

#### HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

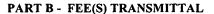
B. If the status is changed, pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above and notify the United States Patent and Trademark Office of the change in status, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

- B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check the box below and enclose the PUBLICATION FEE and 1/2 the ISSUE FEE shown above.
- Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- II. PART B FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.
- III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.



Complete and send this form, together with applicable fee(s), to: Mail Mail Stop ISSUE FEE

Commissioner for Patents
Alexandria, Virginia 22313-1450

or Fax (703) 746-4000

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 4 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

maintenance fee notifications. Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission. CURRENT CORRESPONDENCE ADDRESS (Note: Legibly mark-up with any corrections or use Block 1) 09/30/2003 Joseph A. Mahoney Mayer, Brown & Platt Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO, on the date indicated below. P.O. Box 2828 Chicago, IL 60690 (Depositor's name) (Signature (Date) APPLICATION NO. FILING DATE FIRST NAMED INVENTOR ATTORNEY DOCKET NO. CONFIRMATION NO. 01/19/2002 Jeffrey O. Phillips 02936354 9247 TITLE OF INVENTION: NOVEL SUBSTITUTED BENZIMIDAZOLE DOSAGE FORMS AND METHOD OF USING SAME TOTAL FEE(S) DUE DATE DUE ISSUE FEE PUBLICATION FEE APPLN. TYPE SMALL ENTITY 12/30/2003 nonprovisional YES \$650 \$950 **EXAMINER** ART UNIT CLASS-SUBCLASS FAN, JANE T 1625 514-340000 1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363). 2. For printing on the patent front page, list (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, (2) the name of a single  $\hfill \Box$  Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached. firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer attorneys or agents. If no name is listed, no name will be printed. Number is required. 3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type) PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. Inclusion of assignee data is only appropriate when an assignment has been previously submitted to the USPTO or is being submitted under separate cover. Completion of this form is NOT a substitute for filing an assignment. (A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY) Please check the appropriate assignee category or categories (will not be printed on the patent); ☐ individual □ corporation or other private group entity □ government 4a. The following fee(s) are enclosed: 4b. Payment of Fee(s): ☐ Issue Fee A check in the amount of the fee(s) is enclosed. □ Publication Fee □ Payment by credit card. Form PTO-2038 is attached. ☐ Advance Order - # of Copies ☐ The Director is hereby authorized by charge the required fee(s), or credit any overpayment, to Deposit Account Number \_\_\_\_\_\_ (enclose an extra copy of this form). Director for Patents is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above. (Authorized Signature) (Date) NOTE; The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or oth interest as shown by the records of the United States Patent and Trademark Office. This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Alexandria, Virginia 22313-1450.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/054,350	01/19/2002	Jeffrey O. Phillips	02936354	9247
7.	590 09/30/2003		EXAM	INER
Joseph A. Mahoney Mayer, Brown & Platt			FAN, JANE T	
P.O. Box 2828	iatt		ART UNIT	PAPER NUMBER
Chicago, IL 60690	•		1625	
			DATE MAILED: 09/30/2003	3

## Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)

(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 95 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 95 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) system (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (703) 305-1383. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.



### United States Patent and Trademark Office

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/054,350	01/19/2002	Jeffrey O. Phillips	02936354	9247	
7590 09/30/2003			EXAM	EXAMINER	
Joseph A. Mahoney			FAN, J	FAN, JANE T	
Mayer, Brown & P P.O. Box 2828	latt		ART UNIT	PAPER NUMBER	
Chicago, IL 60690		•	1625		
			DATE MAILED: 09/30/2003	3	

#### Notice of Fee Increase on October 1, 2003

If a reply to a "Notice of Allowance and Fee(s) Due" is filed in the Office on or after October 1, 2003, then the amount due will be higher than that set forth in the "Notice of Allowance and Fee(s) Due" since there will be an increase in fees effective on October 1, 2003. See Revision of Patent Fees for Fiscal Year 2004; Final Rule, 68 Fed. Reg. 41532, 41533, 41534 (July 14, 2003).

The current fee schedule is accessible from (http://www.uspto.gov/main/howtofees.htm).

If the fee paid is the amount shown on the "Notice of Allowance and Fee(s) Due" but not the correct amount in view of the fee increase, a "Notice of Pay Balance of Issue Fee" will be mailed to applicant. In order to avoid processing delays associated with mailing of a "Notice of Pay Balance of Issue Fee," if the response to the Notice of Allowance is to be filed on or after October 1, 2003 (or mailed with a certificate of mailing on or after October 1, 2003), the issue fee paid should be the fee that is required at the time the fee is paid. If the issue fee was previously paid, and the response to the "Notice of Allowance and Fee(s) Due" includes a request to apply a previously-paid issue fee to the issue fee now due, then the difference between the issue fee amount at the time the response is filed and the previously-paid issue fee should be paid. See Manual of Patent Examining Procedure, Section 1308.01 (Eighth Edition, August 2001).

Effective October 1, 2003, 37 CFR 1.18 is amended by revising paragraphs (a) through (c) to read as set forth below.

Section 1.18 Patent post allowance (including issue) fees.

(a) Issue fee for issuing each original or reissue patent, except a design or plant patent:

(b) Issue fee for issuing a design patent:

(c) Issue fee for issuing a plant patent:

By a small entity (Sec. 1.27(a))......\$320.00

By other than a small entity......\$640.00

Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at (703) 305-8283.